

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

MICHAEL CHAKIRIS,

Petitioner,

vs.

JAMES HARTLEY,

Respondent.

CASE NO. 09cv0016 DMS (NLS)

**ORDER (1) DENYING REQUEST
FOR CERTIFICATE OF
APPEALABILITY AND (2)
DENYING MOTION TO
PROCEED *IN FORMA PAUPERIS*
ON APPEAL**

[Docket No. 44]

On October 27, 2009, this Court entered judgment dismissing the petition for a writ of habeas corpus brought by Petitioner pursuant to 28 U.S.C. § 2254. On November 16, 2009, Petitioner filed a Notice of Appeal, which this Court construes as an Application for Certificate of Appealability, along with a motion to proceed *in forma pauperis* (“IFP”) on appeal.

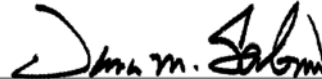
A certificate of appealability is authorized “if the applicant has made a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). “A petitioner satisfies this standard by demonstrating that jurists of reason could disagree with the district court’s resolution of his constitutional claims or that jurists could conclude the issues presented are adequate to deserve encouragement to proceed further.” *Miller-El v. Cockrell*, 537 U.S. 322, 327 (2003). *See also Slack v. McDaniel*, 529 U.S. 473, 484 (2000). Having reviewed the Petition, the R&R and the October 27, 2009 Order dismissing the Petition, the Court finds Petitioner has failed to demonstrate that reasonable

1 jurists would find this Court's dismissal of his petition debatable. Therefore, the Court denies
2 Petitioner's request for a certificate of appealability.

3 The Court also denies Petitioner's motion to proceed IFP on appeal for failure to satisfy the
4 requirements of Fed. R. App. P. 24(a)(1)(A).

5 **IT IS SO ORDERED.**

6 DATED: November 18, 2009

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8 HON. DANA M. SABRAW
9 United States District Judge
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